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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by France Libertes: Fondation Danielle Mitterrand, non-governmental organizations in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[14 February 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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The human rights violations in the case of Roşia Montană

The right to access information, the right to public participation in decision making and the right to have access to justice concerning environmental matters have all been violated in Romania, in the case of Roşia Montană[1]. These rights are enshrined, among others, in Principle 10 of the Rio Declaration (1992) and in Article 25[2] of the International Convenant on Civil and Political Rights. If nothing is done to stop this abuse, serious consequences would be inevitable for the inhabitants of Roşia Montană and the surroundings, consequences that will negatively affect the right to a healthy environment and the right to safe drinking water and sanitation.

Roşia Montană is the oldest mining settlement in Romania – as proved by documents dated from the year 131 A.D. - and has an invaluable natural, cultural and historical heritage. Faced with the refusal of the Romanian authorities to enlist the site on the tentative list of UNESCO World Heritage Sites, the importance of the archaeological site and the imminent danger of destruction which threatens it, led the NGO Europa Nostra to include Roşia Montană on the list of "The Seven most Endangered Sites in Europe"[3].

The Roşia Montană case started on the 5th of September 1995, when the state company Regia Autonomă a Cuprului (RAC) Deva published in a newspaper a public auction announcement for a partnership with a foreign capital company for a mining project in Roşia Montană. However, the contract between RAC Deva and the Canadian company Gabriel Resources was already signed one day before the announcement was made[4]. In addition, the mineral resources of Roşia Montană have been traded on the stock market without the prior consent of their owner, the Romanian state[5]. Afterwards, RAC Deva and Gabriel Resources joined forces to create the company Euro Gold Resources, which later became Roşia Montană Gold Corporation (RMGC).

At Roşia Montană, RMGC plans to create the largest open pit mining site in Europe, using 250,000 tons of cyanide. The residues and the waste rock that will result from the mining process will be stored in a lake which will occupy an area of approximately 400 hectares and a 185-meter-high dam will be built[6].

The project would involve the displacement of 2,156 people (958 families), the demolition or displacement of ten churches and nine cemeteries and the destruction of many archaeological remains. In addition, the Corna Valley would be engulfed in tons of residues and waste resulting from the mining operations. About one hundred families in the region have already agreed to be displaced, most of them after being put under severe pressure by RMGC. As a direct consequence of the planned mining project, social relations in the community have been severely damaged. Many families fear that soon enough there will not be enough inhabitants to maintain the school and basic health services[7].

A series of studies[8] conducted by scientists, associations and institutions emphasize that the potential private benefits in the case of Roşia Montană do not justify the risks involved. This mining project should be abandoned before it causes

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[1] Report submitted to the Aarhus Convention Compliance Committee
http://www.fanfest.ro/~rmorg/sites/default/files/nereguli_procedura_evaluare_mediu_rosiamontana.pdf

[2] Which is not limited to the right to vote; see point 8 of the General observation no. 25 of the Human Rights Council
http://www1.umn.edu/humanrts/gencomm/french/f-HRC-comment25.htm

[3] See the link : http://www.europanostra.org/7-most-endangered/

[4] See the link : http://www.riseproject.ro/articol/documentele-confidentiale-ale-afacerii-rosia-montana/

[5] See the link : http://rosiamontana.org/sites/default/files/Raport_TOTULdespreProiectulRM_site_0.pdf

[6] See the link : http://www.cdep.ro/pls/dic/site.page?id=590

[7] See the link : http://www.cdep.ro/pls/dic/site.page?id=591

[8] See the links : : http://www.cdep.ro/img/rosiam/pdfs/comments_hung.pdf ;
http://www.cdep.ro/img/rosiam/pdfs/rezolutii_ICOMOS.pdf ;
http://www.cdep.ro/img/rosiam/pdfs/studiu_impact1.pdf ;
http://www.cdep.ro/img/rosiam/pdfs/fe_pv.pdf ; http://www.cdep.ro/img/rosiam/pdfs/decl_AR.pdf ;
http://rosiamontana.org/sites/default/files/Anex1__Akeryod_Jones_biodiv_Ro.pdf

devastating and irreversible consequences such as: pollution, which will result in the contamination of water, the destruction of ecosystems and which will affect the health of the population; irreversible destruction of cultural heritage; mutilation of the landscape and increased seismic risks.

There are alternatives to the mining project and they can help boost the overall development of the region and insure economic progress while at the same time protecting its socio-cultural, natural and historical heritage.

Alburnus Maior is an NGO based in Roşia Montană. It was created in 2000 and represents the interests of peop'e from Roşia Montană and from the surroundings, who oppose the mining project. Thanks to the efforts of this NGO, the mining project, which was originally planned to start in 2004, is still on stand-by today.

Several final court decisions canceled illegal documents (the planning permit, the General Land-use Planning of Roşia Montană, etc.). However, the local authorities have ignored these court decisions, providing new documents to replace the ones that had been legally canceled[9].

In addition, in September 2013, the Government has proposed a special law project[10] that offered the mining company RMGC derogatory prerogatives compared to those applicable to other economic operators, which would have resulted in violations of property rights, of the right to a healthy environment, of the right to have access to justice and an equal treatment before the law. Such a law would have also violated the United Nations principles related to expulsion and displacement of populations for reasons of economic development[11]. However, the bill was rejected by the MPs, who were pressured by large peaceful demonstrations against it which took place in Romania and among the Romanian diaspora.

In addition, it should be noted that in May 2013, one of the largest insurance companies in the world, Allianz Group, refused to insure the mining project[12] and, moreover, since December 2013, the mining company RMGC is the subject of a criminal investigation for money laundering[13].

The extractive mining industry is a non-sustainable development practice in terms of impact on the environment and on people. Pollution of surface water and groundwater and depletion of water sources are the main damages due to mining activity. A report[14] made by the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and waste notes with concern the risks related to cyanide mining. Indeed, many incidents causing massive cyanide spill (including Baia Mare in Romania in 2000 and Ajka in Hungary in 2010) and the negative consequences of past and current gold mining exploitations using cyanide are additional arguments to stop a mining project that would be so destructive for the environment.

The right to safe drinking water is a fundamental right recognized by the United Nations[15] and this right is one of the most affected by the practices of extractive industries. In the case of Roşia Montană, the right to safe drinking water threatens to be violated[16]. The right to economic development cannot be invoked to justify the violation of the right to drinking water. The water pollution directly undermines other rights such as the right to health, a healthy nutrition and a healthy environment. Starting the Roşia Montană mining project would undoubtedly entail the violation of these rights.

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[9] See the link : http://www.rosiamontana.org/sites/default/files/prezentarePP_procese_mai2013.pdf

[10] Bill no. PLx549/2009 provided to supplement the Mining law no. 85/2003

[11] A/HRC/4/18

[12] See the link : http://voxpublica.realitatea.net/politica-societate/victorie-pentru-rosia-montana-in-germania-grupul-allianz-nu-si-asuma-riscurile-proiectului-rmgc-foto-video-93249.html

[13] See the link : http://www.riseproject.ro/articol/corporatia-rmgc-cercetata-penal-intr-un-dosar-amplu-de-spalare-de-bani/

[14] A/HRC/21/48

[15] A/RES/64/292 ; A/HRC/RES/15/9 ; A/C.3/68/L.34/Rev.1.

[16] Robert E. Moran, Ph.D. « Review of the Rosia Montana Environmental Impact Assessment Report with a focus on water and water quality-related issues »
http://www.fanfest.ro/~rmorg/sites/default/files/2.raport_Moran_final.pdf

Our organizations call on:

- the Special Rapporteur on the human right to safe drinking water and sanitation ;
- the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health ;
- the independent expert on human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment ;
- the Special Rapporteur on the situation of human rights defenders.

to turn their attention to the situation in Roșia Montană and the serious violations of human rights which have already occurred and which would undoubtedly increase if the mining project were to start.

Concerned by this dramatic situation, we ask the Romanian state to apply the following recommendations:

- respect the fundamental rights of the people , including the right to a healthy environment and the right to public participation ;
- respect and enforce the fundamental right to safe drinking water.

Alburnus Maior and Mouvement Utopia NGO(s) without consultative status, also share the views expressed in this statement.